

EXHIBIT 1-6 A Sample Court Case

<p>This section contains the citation—the name of the case, the name of the court that heard the case, the year of the decision, and reporters in which the court’s opinion can be found.</p>	<p>APPLE, INC. v. AMAZON.COM, INC. United States District Court, Northern District of California, __ ESupp.2d __ , 2013 WL 11896 (2013).</p>
<p>This line provides the name of the judge (or justice) who authored the court’s opinion.</p>	<p>Phyllis J. HAMILTON, District Judge. * * * *</p>
<p>The court divides the opinion into three sections, each headed by an explanatory heading. The first section summarizes the factual background of the case.</p>	<p>BACKGROUND This is a * * * false advertising case. Plaintiff Apple Inc. (“Apple”) alleges that defen-</p>
<p>To <i>allege</i> is to assert to be true as described.</p>	<p>dant Amazon.com Inc. (“Amazon”) has been improperly using the term “APP STORE” in connection with sales of apps for Android devices and the Kindle Fire (Amazon’s tablet computer).</p>
<p>The Lanham Act is a federal statute enacted in 1946 that protects the owner of a trademark against the use of a similar mark if any consumer confusion might result.</p>	<p>Since July 2008, Apple has sold applications (“apps”) for its mobile devices through its APP STORE service. * * * On March 22, 2011, Amazon launched the Amazon Appstore for Android. Apple filed this action [in the same month, asserting] false advertising under Section 43(a) of the Lanham Act.</p>
<p>A <i>summary judgment</i> is a judgment that a court enters without beginning or continuing a trial. This judgment can be entered only if no facts are in dispute and the only question is how the law applies to the facts.</p>	<p>Amazon now seeks * * * summary judgment, as to the * * * cause of action for false advertising.</p>
<p>The second major section of the opinion responds to the defendant’s motion.</p>	<p>DISCUSSION * * * * * * * A false advertising claim under Section 43(a) has five elements [including] a false statement of fact by the defendant in a commercial advertisement about its own or another’s product.</p>
<p>To <i>grant</i> is to approve, warrant, or order a motion or some other request.</p>	<p>* * * Amazon argues that summary judgment should be granted as to this claim because Apple has not identified a single false statement that Amazon has made about the nature, characteristics, or quality of the Amazon Appstore for Android (or the Amazon Appstore, which allows viewing and downloading of apps for the Kindle Fire).</p>

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Apple essentially alleges that by using the word “Appstore” in the name of Amazon’s store, Amazon implies that its store is affiliated with or sponsored by Apple.

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Apple argues that * * * Amazon’s service (“Appstore”) does not possess the characteristics and qualities that the public has come to expect from the name APP STORE, based on their familiarity with Apple’s service. For this reason, Apple argues, Amazon’s use of “Appstore” misleads the public—in particular because (according to Apple) it “implies a false **equivalence** without cuing consumers to test this claim.” Apple contends that because its APP STORE offers so many more apps than Amazon’s Appstore, consumers will be misled into thinking that Amazon’s Appstore will offer just as many.

* * * The court finds no support for the proposition that Amazon has expressly or impliedly communicated that its Appstore for Android possesses the characteristics and qualities that the public has come to expect from the Apple APP STORE and/or Apple products.

That is, Apple has failed to establish that Amazon made any false statement (express or implied) of fact that actually deceived or had the tendency to deceive a substantial segment of its audience. The mere use of “Appstore” by Amazon to designate a site for viewing and downloading/purchasing apps cannot be **construed** as a representation that the nature, characteristics, or quality of the Amazon Appstore is the same as that of the Apple APP STORE. Apple has pointed to no advertisement by Amazon that qualifies as a false statement under Section 43(a) of the Lanham Act. Nor is there **sufficient evidence** to raise a **triable** issue.

* * * If an advertisement is not false on its face (i.e., if there is no express or explicit false statement), the plaintiff must produce evidence, usually in the form of market research or consumer surveys, showing exactly what message was conveyed that was sufficient to constitute false advertising. Here, Apple has presented no evidence that

An *equivalence* is a characteristic or quality corresponding in effect or function, or nearly equal or virtually identical, to another.

To *construe* is to interpret or explain the sense of something according to judicial standards.

Sufficient evidence is evidence that is sufficient to satisfy an unprejudiced mind seeking the truth.

A *triable* issue is an issue that is subject to judicial examination and trial.

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In this context, *attribute* refers to the elements or properties of the App Store that are closely associated with Apple.

consumers or customers understand “app store” to include specific qualities or characteristics or **attributes** of the Apple APP STORE, or that any customers were misled by Amazon’s use of the term.

Here, *seamlessly integrated* means coordinated to operate without any awkward transitions or interruptions.

Apple asserts that its APP STORE offers many more apps than Amazon’s does, and that the apps are “**seamlessly integrated**” with all Apple devices. However, there is no evidence that a consumer who accesses the Amazon Appstore would expect that it would be identical to the Apple APP STORE, particularly given that the Apple APP STORE sells apps solely for Apple devices, while the Amazon Appstore sells apps solely for Android and Kindle devices. Further, the integration of Apple devices has more to do with Apple’s technology than it does with the nature, characteristics, or qualities of the APP STORE.

Showing is the act of establishing through evidence and argument.

Apple fails to make clear how [Amazon’s use of Appstore] constitutes a “statement” that implies something false about the nature, characteristics, or qualities of Apple’s APP STORE, because it has made no **showing** that such (implied) statement deceived or had a tendency to deceive users of Amazon’s Appstore.

In the third major section of the opinion, the court states its decision.

CONCLUSION

* * * Amazon’s motion for summary judgment as to the * * * cause of action for false advertising is GRANTED.